

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ALLIANCE FOR HIPPOCRATIC MEDICINE, on behalf of itself, its member organizations, their members, and these members' patients; **AMERICAN ASSOCIATION OF PRO-LIFE**, on behalf of itself, its members, and their patients; **AMERICAN COLLEGE OF PEDIATRICIANS**, on behalf of itself, its members, and their patients; **CHRISTIAN MEDICAL & DENTAL ASSOCIATIONS**, on behalf of itself, its members, and their patients; **SHAUN JESTER, D.O.**, on behalf of himself and his patients; **REGINA FROST-CLARK, M.D.**, on behalf of herself and her patients; **TYLER JOHNSON, D.O.**, on behalf of himself and his patients; and **GEORGE DELGADO, M.D.**, on behalf of himself and his patients,

Plaintiffs,

v.

CASE NO. 2:22-cv-00223-z

U.S. FOOD AND DRUG ADMINISTRATION; **ROBERT M. CALIFF, M.D.**, in his official capacity as Commissioner of Food and Drugs, U.S. Food and Drug Administration; **JANET WOODCOCK, M.D.**, in her official capacity as Principal Deputy Commissioner, U.S. Food and Drug Administration; **PATRIZIA CAVAZZONI, M.D.**, in her official capacity as Director, Center for Drug Evaluation and Research, U.S. Food and Drug Administration; **U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES**; and **XAVIER BECERRA**, in his official capacity as Secretary, U.S. Department of Health and Human Services,

Defendants,

and

DANCO LABORATORIES, LLC,

Intervenor Defendant.

**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE*
DOCTORS FOR AMERICA IN SUPPORT OF DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

TO THE HONORABLE COURT:

1. Pursuant to Fed. R. Civ. P. 7 and Local Rules 7.1 and 7.2(b), Doctors for America (hereinafter “DFA”) respectfully moves for leave to file the attached brief as *amicus curiae* in the above-captioned case in support of Defendants’ response and opposition to Plaintiffs’ motion for preliminary injunction. Defendants and Plaintiffs have stipulated that they will not oppose the filing of this or other *amicus* briefs. ECF No. 12.

2. The movant, DFA, is a 501(c)(3) non-profit, national organization of over 27,000 physicians and medical students representing all medical specialties. DFA seeks to improve the health of every American through its four guiding principles: (1) Every person in America has a fundamental right to equitable, high-quality, and affordable health care; (2) Everyone should have the opportunity to lead a healthy life; (3) Every part of society should value and promote healthy families and communities; and (4) Doctors should take a leadership role in improving health care and ending health disparities. DFA does not accept any funding from the pharmaceutical or medical device industry, which enables DFA to ensure that patients are placed before politics and profits. The issues presented in this case would limit patient access to an essential medicine, potentially impacting patients across the nation; thus, this case is of grave concern to DFA, its members, and their patients.

3. The attached brief seeks to provide the Court with first-hand accounts from physicians regarding the dangerous ramifications of enjoining access to mifepristone. These narratives by physicians highlight the importance of mifepristone in the provision of safe and effective healthcare to affected patients, the potential negative impact a removal of mifepristone

would have on those patients, and the professional difficulties such a removal would effectuate on physicians.

4. Judges in this District have broad discretion to accept *amicus* filings and have allowed *amicus* filings by interested parties in cases of significance. *See, e.g., Kinard v. Dish Network Co.*, 228 F. Supp. 3d 771, 777 (N.D. Tex. 2017); *Nat'l Fed'n of Indep. Bus. v. Perez*, No. 5:16-CV-66-C (N.D. Tex. May 2016); *Taylor v. Williams*, No. 5:14-CV-149-C (N.D. Tex. Mar. 29, 2016); *Fonovisa, Inc. v. Alvarez*, No. 1:06-CV-011-C (N.D. Tex. June 15, 2006); *Welch v. U.S. Air Force*, No. 5:00-cv-392 (N.D. Tex. Sept. 23, 2002). In addition, this Court has historically accepted *amicus* filings by interested parties. *See, e.g., State of Texas v. Becerra*, No. 2:21-cv-00229 (N.D. Tex. Nov. 15, 2021); *State of Texas v. Yellen*, No. 2:21-cv-00079 (N.D. Tex. May 3, 2021). Further, this Court has already granted leave to another *amicus curiae* in this case, the Chattanooga National Memorial for the Unborn. *See* ECF No. 30, 31.

5. Neither *amici* nor counsel received any monetary contributions to fund the preparation or submission of this brief; no party's counsel authored this brief in whole or in part; and this motion and the attached brief are timely filed. *See* ECF No. 12.

6. For all the foregoing reasons, Doctors for America respectfully requests that the Court grant it leave to participate as *amicus curiae* and accept the attached brief for filing.

Dated: February 9, 2023

Respectfully submitted,

/s/ Christopher J. Morten

Christopher J. Morten
SCIENCE, HEALTH & INFORMATION CLINIC
MORNINGSIDE HEIGHTS LEGAL SERVICES,
INC.
Columbia Law School, 435 W 116th St
New York, NY 10027
Tel.: (212) 854-4291
cjm2002@columbia.edu
Counsel of Record
Counsel for Doctors for America

/s/ Thomas S. Leatherbury

Thomas S. Leatherbury
THOMAS S. LEATHERBURY LAW, PLLC.
Cumberland Hill School Building
1901 N. Akard St
Dallas, TX 75291
Tel.: (214) 213-5004
Tom@tsleatherburylaw.com
Counsel of Record
Counsel for Doctors for America

CERTIFICATE OF CONFERENCE

Plaintiffs and Defendants stipulated in their Joint Motion to Extend Deadlines not to oppose the filing of *amicus* briefs and further stipulated that any *amici* need not seek the specific consent of either Plaintiffs or Defendants before seeking leave of the Court. ECF No. 12 ¶3.

Dated: February 9, 2023

Respectfully submitted,

/s/ Christopher J. Morten
Christopher J. Morten

CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2023, the foregoing was electronically submitted to the Clerk of Court for the U.S. District Court for the Northern District of Texas using the Court's electronic case filing system in accordance with Local Rule 5.1(e). All counsel of record will be served via the Court's CM/ECF system and via email.

Dated: February 9, 2023

Respectfully submitted,

/s/ Christopher J. Morten
Christopher J. Morten